



# San Diego County Water Authority

A Public Agency

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December 11, 1998

Mr. Lester A. Snow, Executive Director  
CALFED Bay-Delta Program  
1416 Ninth Street  
Sacramento, California 95814

Subject: Comments on Revised Phase 2 Report Discussion Draft

Dear Lester:

Thank you for the opportunity to review and provide comments on the draft Revised Phase 2 Report dated December 9, 1998. Authority staff has reviewed the draft report and offers the following comments:

1. We were pleased to see in the revised draft report that a "404 assurance finding" on the need for storage or conveyance facilities will be completed prior to the Record of Decision (page 152). We presume that "404 assurance finding" refers to a finding on the need for, *and amount of*, new groundwater and surface storage. It should be made clear throughout the draft report that CALFED's water management strategy includes the construction of new surface and groundwater storage. As we stated in our letter dated November 30, a Section 404 finding of need for storage represents a critical assurance mechanism for water users.
2. The draft report still appears to place a higher burden of proof on the dual conveyance alternative than on the through-Delta alternative. The third paragraph on page 86, for example, says that, "a decision to construct an isolated facility may occur if, in combination with vigorous implementation of relevant common program elements, and consideration of other water management options, an isolated facility is still deemed necessary." The process described in that paragraph is essentially open-ended. What constitutes "vigorous" implementation of the common programs and how many other water management options will CALFED examine before concluding that an isolated facility is necessary? This open-ended language is repeated in the following paragraph, which states that an inability to achieve fishery recovery could result in the construction of an isolated facility and/or other additional water management actions.

Elsewhere, the draft report states that Stage 1 does not have a predefined outcome (page 47). If this is the case, the report should convey an attitude of neutrality toward the dual conveyance alternative. The language on pages 86 and

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87, and elsewhere in the report, does not convey that attitude. Our acceptance of the staged decision-making approach is conditioned on the assumption that the process is not open-ended and will not delay indefinitely decisions about a long-term Bay-Delta solution. CALFED must identify specific criteria that, if not achieved through the implementation of pre-defined Stage 1 actions, will trigger the decision regarding construction of the dual conveyance alternative.

3. The draft report does not include the final DEFT actions, so we cannot comment on those actions except to note that the actions: (1) should include measures to control the introduction and spread of exotic species, and (2) should be consistent with the principle of providing continuous water quality, water supply reliability and fisheries improvements. It is our expectation that the flexible operating criteria and environmental water account described later in the report will be implemented in a way that benefits both the ecosystem and water users and does not reduce State Water Project supplies below those levels available under the Bay-Delta Accord. Ultimately, we expect the CALFED Program to increase State Water Project supplies.
4. CALFED should, either through the DEFT actions or its Ecosystem Restoration Plan, assess the effect of ocean harvest rates on fish survival rates and propose changes to those harvest rates as appropriate to increase the survival rates of wild stocks.
5. On page 19, we recommend that you revise the first three sentences of the third paragraph under **Institutional and Operational Framework** as follows: "In addition to allocating shortages, the legal/management system also allocates water savings. ~~For example, if an upstream diverter introduces some water saving management techniques, the next downstream diverter with senior rights can have more access to water. While it is often clear who has the right to saved water, Sometimes in some cases the determination of allocation of savings is may be~~ more complicated."

The example cited in the second sentence, as currently drafted, does not account for the provisions of Water Code Sec. 1011, which indicates that conserved water may be transferred by the appropriator that conserves the water. Other facets of water law, such as the "no injury rule," can also complicate the allocation of savings. The sentence should be revised to simply indicate that the system does deal with the allocation of saved water, but not to indicate how that allocation would occur.

6. The list of characteristics needed to make Stage 1 succeed (on pages 47 and 48) should be expanded to include the following: "Include near and interim milestones to measure water quality, water supply reliability, and fishery improvements."

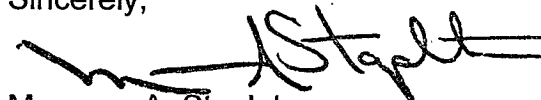
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CALFED should work with stakeholders to identify these milestones prior to the issuance of the ROD.

7. The Delta Drinking Water Council proposed on page 88 should include representatives from northern and southern California urban water agencies and in-Delta interests.
8. We support the development of measurable water use efficiency objectives for urban, agricultural and environmental uses. Urban conservation objectives should be based on actions taken (e.g., implementing best management practices) rather than outcomes (e.g., quantity of water saved), and should be consistent with the Urban MOU for Efficient Water Use.
9. The watershed wide diversion fee proposed on pages 137 and 138 is theoretically consistent with the Authority's policy principles for a CALFED solution, which state that the costs of the CALFED Program be allocated to all those who benefit from the Program. We agree, however, that substantive questions remain regarding the application, level and structure of a diversion fee. Please note that our support for a diversion fee is premised on the assumption that our agency will receive certain benefits from the CALFED Program, including increased water supply reliability and quality. The diversion fee should be implemented as part of a larger assurances package that guarantees water users measurable benefits from the CALFED Program.
10. We suggest that Item 8 of the list of Stage 1 Water Transfer Program actions (on page 112) be revised as follows, "CALFED agencies will work with stakeholders to develop an agreed upon set of criteria and procedures governing the determination of transport system availability and costs, including the procedures to determine the fair reimbursement to the water conveyance facility operator in accordance with state law."

Thank you again for the opportunity to comment on the revised draft report. If you have any questions regarding the above comments, please call me at 619/682-4202, or Gordon Hess at 619/682-4155.

Sincerely,



Maureen A. Stapleton  
General Manager

cc: Steve Ritchie, Chief Deputy Director

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